UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD REGION 15

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THE EXPO GROUP, LP ¹	*		
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Employer	*		
	*		
and	*	Case	15-RC-094712
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INTERNATIONAL ALLIANCE OF	*		
THEATRICAL STAGE EMPLOYEES,	*		
LOCAL 39	*		
Petitioner	*		
	*		
and	*		
	*		
INTERNATIONAL BROTHERHOOD OF	*		
TEAMSTERS, LOCAL 270	*		
,	*		
Intervenor	*		
	*		
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DECISION AND DIRECTION OF ELECTION

Upon a Petition filed under Section 9(c) of the National Labor Relations Act (Act), as amended, a hearing was held before a Hearing Officer of the National Labor Relations Board (Board) in New Orleans, Louisiana, on December 21, 2012. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

I. Summary of Findings

International Alliance of Theatrical and Stage Employees, Local 39 filed the Petition seeking to represent a unit made up of the Employer's employees performing show site freight

¹ The name of the Employer appears in the caption as amended at the hearing.

services work in the greater New Orleans metropolitan area. Other than an issue inappropriate for hearing concerning the Petitioner's showing of interest,² there are essentially no issues.³ As I find there is a question concerning representation, I am directing an election in an appropriate Unit as stipulated at the hearing.

II. Findings

A. Stipulations

The parties have stipulated, and I hereby find:

- 1. The Expo Group, LP (the Employer) is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction.⁴
- 2. International Alliance of Theatrical and Stage Employees, Local 39 (Local 39 or Petitioner), is a labor organization within the meaning of Section 2(5) of the Act.
- 3. International Brotherhood of Teamsters, Local 270 (Local 270 or Intervenor), is a labor organization within the meaning of Section 2(5) of the Act.
- 4. The Unit sought is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

B. Other Findings

The Hearing Officer's rulings are free from prejudicial error and are affirmed. As referenced above, the only issue raised at hearing is Local 270's contention that Local 39's

² As addressed below, this issue is an administrative matter.

³ All Parties at the hearing waived the filing of post-hearing briefs.

⁴ The Expo Group, LP, a Texas limited partnership with job sites in New Orleans, Louisiana, is engaged in the convention and trade show industry. In conducting its business operations, the Employer performs services valued in excess of \$50,000 in states other than Texas. Annually, the Employer, in the course and conduct of its business operations described above, purchases and receives at its New Orleans, Louisiana job sites goods valued in excess of \$50,000 directly from points outside of the state of Louisiana.

showing of interest in support of the Petition is invalid. However, Local 270 concedes that Local 39's showing of interest is not a matter properly litigated at a pre-election representation hearing. Local 270, the Employer and Local 39 essentially agree that any examination of Local 39's showing of interest is a matter for an administrative investigation. Just as Local 270 concedes, the sufficiency of Local 39's showing of interest is an administrative matter not subject to litigation. *Fish Plant Services*, 311 NLRB 1294 (1993); *O. D. Jennings and Co.*, 68 NLRB 516 (1946). I am administratively advised that Local 39's showing of interest is adequate.

Given that Local 39 and Local 270 are labor organizations within the meaning of the Act, the Petition filed by Local 39 and that the Employer has declined to recognize Local 39, I find that there is a question affecting commerce concerning the representation of employees of the Employer.⁵

III. Conclusion

I am directing an election in the petitioned-for Unit as stipulated at the hearing:

Included: All employees employed by the Employer on a part-time, per diem or casual basis, performing show site freight services work, including all employees employed in loading, unloading, handling and placing of exhibitors' freight equipment, storage and replacing exhibitors' empties, general labor, exhibit freight, association freight, small packages, checkers, material handlers, forklift operators, rigging forklift operators, traffic controllers, and exhibit and machine rigging, and other freight-related duties in the greater New Orleans metropolitan area. Excluded: All other employees hired to work as salespersons, customer service representatives, security guards, clerical workers, and supervisors as defined by the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the Unit found appropriate above. The employees will vote whether or not they

⁵ The record is silent as to any evidence indicating contract bar or any history of collective-bargaining that would preclude my finding that there is a question concerning representation.

wish to be represented for purposes of collective bargaining by the International Alliance of Theatrical and Stage Employees, Local 39, or by the International Brotherhood of Teamsters, Local 270, or not at all. The date, time and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

Eligibility to Vote

As stipulated at the hearing, those eligible to vote in the election are all employees in the above Unit who worked four or more hours for the Employer during the six-month period immediately preceding the filing of the petition on December 12, 2012, in the greater New Orleans metropolitan area. Ineligible to vote are: (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility; (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date; and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

<u>List of Eligible voters</u>

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 US 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361

(1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office on or before **January** 18, 2013. No extension of time to file the list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website, **www.nlrb.gov**, by mail, or by facsimile transmission at 504-589-4069. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party. Since the list will be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of three (3) working days prior to 12:01 a.m. of the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the election if it has not received copies of

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⁶ To file the eligibility list electronically, go to the Agency's website at <u>www.nlrb.gov</u>, select **E-File Documents**, enter the NLRB Case Number and follow the detailed instructions. Guidance for e-filing is contained in the attachments supplied with the Regional Office's initial correspondence in this matter and is also located on the Agency's website, www.nlrb.gov.

the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on non-posting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington, D.C., by January 25, 2013. The request may be filed electronically through the Agency's website, www.nlrb.gov, but may not be filed by facsimile transmission.

SIGNED and DATED at New Orleans, Louisiana this 11th day of January, 2013.

/s/

M. KATHLEEN MCKINNEY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 15
600 SOUTH MAESTRI PLACE – 7TH FLOOR
NEW ORLEANS, LOUISIANA 70130-3408

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⁷ To file the Request for Review electronically, go to **www.nlrb.gov**, select **E-File Documents**, enter the NLRB Case Number and follow the instructions.